

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fort Collins, Colorado 80528

PATENT APPLICATION

ATTORNEY DOCKET NO. 200315306-1

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s): Allen MIU et al.

Confirmation No.: 9025

Application No.: 10/769,090

Examiner: Christopher M. Brandt

Filing Date: 01/30/2004

Group Art Unit: 2617

Title: SYSTEMS AND METHODS FOR MULTI-ACCESS POINT TRANSMISSION OF DATA USING A PLURALITY OF ACCESS POINTS

**Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450**

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on 03/18/2010 .

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

Respectfully submitted,
Allen MIU et al.

By: /John P. Wagner, Jr./

John P. Wagner, Jr.
Attorney/Agent for Applicant(s)

Reg No. : 35,398

Date : 05/18/2010

Telephone : 408-377-0500

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	MIU et al.	Patent Application
Application No.:	10/769,090	Group Art Unit: 2617
Filed:	January 30, 2004	Examiner: Brandt, Christopher M.
For:	SYSTEM AND METHOD FOR MULTI-ACCESS POINT TRANSMISSION OF DATA USING A PLURALITY OF ACCESS POINTS	

REPLY BRIEF

In response to the Examiner's Answer mailed on March 18, 2010, Appellants respectfully submit the following remarks.

REMARKS

Appellants are submitting the following remarks in response to the Examiner's Answer. In these remarks, Appellants are addressing certain arguments presented in the Examiner's Answer. While only certain arguments are addressed in this Reply Brief, this should not be construed that Appellants agree with the other arguments presented in the Examiner's Answer.

Response to Response to Argument in Examiner's Answer

Appellants understand the Examiner's Answer to assert that Rimhagen teaches "wherein said data is transmitted in a pattern" and "wherein said pattern is selected from a group of predetermined patterns" as claimed. In particular, the Examiner's Answer recites that Rimhagen teaches that "the thresholds are predetermined and the pattern is the number of communication stations that are transmitting data to the remote communication station" (Examiner's Answer; page 26, lines 1-2). Appellants respectfully disagree with this assertion.

Appellants respectfully note that Rimhagen recites that "[t]he network assigns multiple CSs as necessary to service the communication requested by the RCS (step 215). The network may therefore assign multiple CSs when the bandwidth required for the communication request exceeds the available bandwidth resources of the best-serving CS and/or when transmissions of an acceptable signal quality between the requesting RCS and the second, third, etc. best-serving CSs may be established. The multiple assigned CSs service the RCS for the requested communication (step 220)" (emphasis added; col. 5, lines 20-28).

Appellants understand the above-cited passage of Rimhagen to disclose that CSs are assigned as necessary, e.g., when needed to satisfy bandwidth constraints or quality demands. In

particular, Appellants understands that this assignment of CSs is based on CS availability and the variability of network bandwidth and link signal quality. Appellants submit that such assignment of CSs is not based on a predetermined pattern, but rather on the particular conditions of the network at a given moment in time, including whether a CS is available.

As presented in the Appeal Brief, Appellants respectfully submit that such teachings actually teach away from the claimed embodiments because the thresholds define values for variables, and thus are not predetermined. Moreover, the number of communication stations is also a variable, and thus not predetermined. In particular, Appellants respectfully submit that by disclosing that the combination of thresholds and a number of communication stations are used in assigning communication stations, that Rimhagen teaches away from “wherein said data is transmitted in a pattern” and “wherein said pattern is selected from a group of predetermined patterns” as claimed.

CONCLUSION

In view of the above remarks, Appellants continue to assert that pending Claims 1, 3-14, 16-28, 30-36 and 38-40 are patentable over the asserted art as the rejections under 35 U.S.C. §103(a) do not satisfy the requirements of a *prima facie* case of anticipation, for reasons presented above and for reasons previously presented in the Appeal Brief.

Respectfully submitted,

WAGNER BLECHER LLP

Dated: May 18, 2010

/John P. Wagner, Jr./
John P. Wagner, Jr.
Registration Number: 35,398

WAGNER BLECHER LLP
123 Westridge Drive
Watsonville, CA 95076
(408) 377-0500